

1 KAMALA D. HARRIS
Attorney General of California
2 JANICE K. LACHMAN
Supervising Deputy Attorney General
3 LORRIE M. YOST
Deputy Attorney General
4 State Bar No. 119088
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 445-2271
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2012-132

13 **TIMOTHY MCCLURE BRECKENRIDGE**
3822 Southpass Avenue
Baton Rouge, Louisiana 70820

A C C U S A T I O N

14 **Registered Nurse License No. 674469**

15 Respondent.

16
17 Louise R. Bailey, M.Ed., RN ("Complainant") alleges:

18 **PARTIES**

19 1. Complainant brings this Accusation solely in her official capacity as the Executive
20 Officer of the Board of Registered Nursing ("Board"), Department of Consumer Affairs.

21 2. On or about February 24, 2006, the Board issued Registered Nurse License Number
22 674469 to Timothy McClure Breckenridge ("Respondent"). The registered nurse license was in
23 full force and effect at all times relevant to the charges brought herein and expired on May 31,
24 2009, and has not been renewed.

25 **JURISDICTION**

26 3. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that
27 the Board may discipline any licensee, including a licensee holding a temporary or an inactive

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1 license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing
2 Practice Act.

3 4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not
4 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or
5 to render a decision imposing discipline on the license. Under Code section 2811(b), the Board
6 may renew an expired license at any time within eight years after the expiration.

7 STATUTORY PROVISIONS

8 5. Code section 2761 states:

9 "The board may take disciplinary action against a certified or licensed nurse or deny an
10 application for a certificate or license for any of the following:

11 (a) Unprofessional conduct, which includes, but is not limited to, the following:

12 (4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action
13 against a health care professional license or certificate by another state or territory of the United
14 States, by any other government agency, or by another California health care professional
15 licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that
16 action."

17 COST RECOVERY

18 6. Code section 125.3 provides, in pertinent part, that the Board may request the
19 administrative law judge to direct a licentiate found to have committed a violation or violations of
20 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
21 enforcement of the case.

22 FIRST CAUSE FOR DISCIPLINE

23 (Out-of-State Discipline)

24 7. Respondent is subject to discipline under Code section 2761(a)(4), in that effective
25 November 15, 2010, and pursuant to the Settlement Order, attached hereto as **Exhibit A**, in a
26 matter entitled, "*In the Matter of Timothy McClure Breckenridge*," Respondent's Louisiana
27 Registered Nurse License Number RN 104211 was suspended. The suspension was stayed and
28 Respondent was placed on probation for a minimum of three (3) years with stipulations to include

1 outpatient evaluations, after Respondent demonstrated a pattern of alcohol related arrests and
2 incidents. Additional stipulations included the following:

3 a. Submit to a comprehensive outpatient psychiatric, psychological, and substance abuse
4 evaluation within 60 days of the effective date of the Settlement Order. If Respondent was found
5 to be chemically dependent, he was to immediately sign an agreement with the Recovering Nurse
6 Program and submit evidence of compliance with the program for a minimum of three (3) years.

7 b. Remain free of alcohol and un-prescribed mood altering substances.

8 c. Voluntarily submit to random and observed drug screens for a minimum of 24 times per
9 year.

10 PRAYER

11 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
12 and that following the hearing, the Board of Registered Nursing issue a decision:

13 1. Revoking or suspending Registered Nurse License Number RN 674469, issued to
14 Timothy McClure Breckenridge;

15 2. Ordering Timothy McClure Breckenridge to pay the Board of Registered Nursing the
16 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
17 Professions Code section 125.3; and,

18 3. Taking such other and further action as deemed necessary and proper.

19 DATED: August 24, 2011

20 *for* *Louise R. Bailey*
21 LOUISE R. BAILEY, M.ED., RN
22 Executive Officer
23 Board of Registered Nursing
24 Department of Consumer Affairs
25 State of California
26 Complainant

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EXHIBIT A

LOUISIANA STATE BOARD OF NURSING
BATON ROUGE, LOUISIANA

IN THE MATTER OF:

TIMOTHY MCCLURE BRECKENRIDGE *

710 HUDSON'S WAY *

BATON ROUGE, LA 70810 *

Respondent

RN104211

SETTLEMENT ORDER

On November 15, 2010 pursuant to the authority vested by Louisiana Revised Statutes 37:911, et seq, the Louisiana State Board of Nursing held a Settlement Conference in a matter involving **Timothy McClure Breckenridge**.

The Settlement Committee is vested with the authority from the Louisiana State Board of Nursing to enter into a final decision regarding settlement with **Respondent**. The members of the Settlement Committee on November 15, 2010, were **Carlene MacMillan, RN, MN, Velma (Sue) Westbrook, DNS, MA, RN, and Barbara L. Morvant, MN, RN, Executive Director**. **Timothy McClure Breckenridge** did appear and [was not] represented by legal counsel at the Settlement Conference. A review of the file reveals the following **FINDINGS OF FACT:**

1. On March 15, 2002, Respondent was licensed by examination to practice as a Registered Nurse in Louisiana.
2. Respondent had demonstrated a pattern of alcohol-related incidents that have led to intervention by law enforcement. After completing a court-ordered probation related to a March 14, 2002, arrest for Driving While Intoxicated (DWI) with an Intoxilyzer alcohol level of 0.177g%,
 - On or about November 24, 2009, Respondent was arrested by the Baton Rouge Police Department for 2nd offense DWI and Driving without Headlights, with an Intoxilyzer alcohol level of 0.238g%. Court proceedings are currently pending, as Respondent's next court date is scheduled for November 17, 2010.
3. On November 15, 2010, Respondent appeared before the Settlement Committee. He provided letter of reference from colleagues and supervisors regarding his work performance. Respondent admitted to drinking on his days off work and that his last binge-drinking occurred about four months ago. Respondent also asked the Settlement Committee to consider that it has been seven years since his first DWI arrest.

After careful consideration of all information received, the Settlement Committee determined that the information is **sufficient** to show that the Respondent **has** violated the Louisiana Nurse Practice Act, L.A.R.S. 37:911, et. seq., and/or Rules of the Board L.A.C. 46:XI.VII.3101, et. seq.

The Respondent expressly waives an Administrative Hearing and all further proceedings before the Board to which Respondent may be entitled by law. The Respondent expressly waives all rights to seek judicial review or to otherwise challenge the validity of said Settlement Order.

This Settlement Order shall be filed and made part of the record and shall become public information. This order is made for the purposes of settlement of the contested administrative proceeding before the Louisiana State Board of Nursing at this time. This Settlement Order shall constitute a public record and is disciplinary action by the Board. This shall be reported as **Healthcare Integrity and Protection Data Bank (HIPDB)** as 99, Other: **Criminal Arrest, Alcohol-Related**.

SETTLEMENT ORDER
TIMOTHY MCCLURE BRECKENRIDGE
November 15, 2010
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HIPDB Narrative: By Settlement Order, RN's license was suspended with stay and probation for a minimum of three years with stipulations to include outpatient evaluations, after RN demonstrated a pattern of alcohol related DWI arrests/incidents.

This document contains the entire agreement between the Board and the Respondent, there being no agreement of any kind, verbal or otherwise, which varies, alters or adds to this agreement. Based upon this conference, and without further notice of proceedings, the Louisiana State Board of Nursing enters into the following Settlement Agreement with **Timothy McClure Breckenridge**:

In order to avoid further administrative proceedings, I hereby consent to accept and abide by the following ORDER of the Board:

The license of this Respondent is suspended, with a stay of the said suspension, and that the license is probated for a minimum of two (2) years, with the following stipulations:

1. Within three (3) days upon receipt of this Order, send RN license to the Board office so that the license can be marked "probated".
2. Within 6 months, submit payment of \$250.00 as cost of Settlement Order.
3. Within 12 months, submit payment of \$750.00 to the Board as fine.
4. Starting on December 1, 2010, by the first of each month, submit a monthly probation fee of twenty-five dollars (\$25.00) to the Board.
5. Submit certified true copies of all criminal arrests, charges, court minutes, judgment, and final disposition as soon as they are available.
6. Within 60 days, submit to comprehensive outpatient psychiatric, psychological, and substance abuse evaluation, at Respondent's expense, at a Board-recognized evaluation and treatment center; Shall authorize and cause a written report of the said evaluation to be submitted to the Board; Shall include the entire evaluation report including diagnosis, course of treatment, prescribed or recommended treatment, prognosis, and professional opinion as to registrant's capability of practicing nursing with reasonable skill and safety to patients.
7. Shall submit all pages of this agreement to each evaluator prior to the start of the evaluations in order for the evaluation to be deemed valid.
8. Immediately submit to all recommendations thereafter of the therapist, physician, or treatment team, and cause to have submitted evidence of continued compliance with all recommendations by the respective professionals. This stipulation shall continue until the registrant is fully discharged by the respective professionals and until approved by the Board staff.
9. If the evaluations give any treatment recommendations or findings to warrant concern for patient safety, shall meet with Board or Board staff. Must demonstrate to the satisfaction of the Board that he poses no danger to the practice of nursing or to the public and can safely and competently perform the duties of a Registered Nurse. If Board approves continued licensure, the probation period, conditions/stipulations, may be revised to ensure that patients and the public are protected.
10. If found to be chemically dependent, immediately sign an agreement with the Recovering Nurse Program (RNP) and cause to have submitted evidence of compliance with all program requirements for a minimum of three (3) years. License suspension with stay and probation shall be extended to run concurrently, on the same dates, with RNP participation.
11. Shall remain free of alcohol and all un-prescribed mood altering substances. Any mood altering, addictive, or dependency-inducing substance must be currently prescribed for a bona fide medical condition by a physician (or other qualified treating prescriber(s)) knowledgeable about the individual's history and the information underlying the Board's concerns. All prescribed drugs must be verified in writing to the Board on a specified form by the prescribing

SETTLEMENT ORDER
TIMOTHY MCCLURE BRECKENRIDGE
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- physicians/qualified prescriber(s) within five (5) days from the effective date of this agreement/order and within five (5) days from the date(s) of any new prescriptions. The Board reserves the right to have a LSBN recognized addictionist review and approve the prescriptions for continued nursing practice.
12. Shall maintain complete and total abstinence from any and all potentially addictive chemicals whether over-the-counter, scheduled or unscheduled (including but not limited to alcohol, alcohol containing products, marijuana, tranquilizers, sedatives, stimulants, narcotics, opioids including ultram (tramadol), nubain, soporifics, androgenic steroids, or any other addictive drug) except as prescribed for a bona fide medical condition by a healthcare provider who is knowledgeable in, and aware of Respondent's history with the Board.
 13. Shall voluntarily submit to random and observed drug screens, for a minimum of 24 times a year, inclusive of bodily fluids, breath analysis, hair analysis, or any other procedure as may be directed by the Board and/or employer. If selected for a screen, failure to provide sufficient specimen (bodily fluids, hair, nails etc.) for analysis or failure to test may be considered a positive screen. Random drug screens will be a minimum of 24 times a year. It is the Respondent's responsibility to assure that lab personnel observe all urine specimen collections. If urine specimen collection is not observed the results are invalid. The Respondent agrees to call the toll free number or check the testing notification via computer daily. Compliance with checking daily is monitored and failure to check may result in additional screens. It is the Respondent's responsibility to maintain a current account with testing administrator. If Respondent misses a test due to a suspended account or fails to test on the day of notification it will be considered a positive screen and appropriate action will be taken including but not limited to, further evaluation, additional testing, and suspension of license. The results of any such testing will be reported directly to the Board. Any and all such testing shall be performed at Respondent's expense. Additional screenings may be requested by Board staff. Written reports of same shall be submitted to the Board.
 14. Shall avoid exposure to anything that will cause a urine drug test to be positive. In that regard, Respondent shall avoid such items as "hemp oil" "coca tea" and poppy seeds (which can be found in curry sauces, breads, salad dressings, and in or on other foods). Respondent agrees to not use ethyl alcohol in any form (including N.A. or alcohol- "free" wine or beer, over-the-counter drugs containing alcohol (cough syrup, Nyquil or other similar OTC drugs or supplements), mouthwash or other hygiene products containing ethanol, foods containing ethanol (desserts, vanilla extract, etc.), communion wine, sanitizing hand or body gels (Purell or other), or any other form of ethyl alcohol). Intentional use of any of these products or medications without a physicians order is a violation of this order.
 15. Respondent agrees to execute a written authorization, along with execution of this Settlement Order, allowing the Louisiana State Board of Nursing, and any authorized designees thereof, to access prescription monitoring information submitted to, or maintained by, the Louisiana Board of Pharmacy through its Prescription Monitoring Program (PMP) for the purpose of monitoring compliance with this agreement/Order and to determine fitness and ability to practice nursing with reasonable skill and safety. Respondent shall cause to be submitted a completed authorization release form to the Louisiana Board of Pharmacy and shall cause information and reports to be sent to the Louisiana State Board of Nursing, such written authorization to be effective for the duration of this agreement/Order. Respondent may also be required during this time period duration to provide to the board/board staff copies of prescription monitoring information maintained by the Board of Pharmacy.
 16. Prior to beginning or returning to work, inform all nursing employers of these disciplinary measures and of the probationary status of license. Respondent is responsible to submit a copy of all pages of this agreement to each employer and nursing supervisor.
 17. Within 5 days, shall cause all employers to submit to Board, signed Employer's Agreements.

SETTLEMENT ORDER
TIMOTHY MCCLURE BRECKENRIDGE
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- 18 Have all immediate nursing supervisors submit a performance evaluation report quarterly, commencing from the first date of employment. Quarterly reports are due on or before the first day of January, April, July and October.
- 19 Work in a restrictive environment as a member of a treatment team rather than alone or with a few employees. Additionally, not be employed in any unsupervised setting. Must be directly supervised by an on site Registered Nurse. Not be employed in agency/pool/staffing home health services, or nursing homes.
- 20 Immediately (within 72 hours) inform the Board in writing of any change in address.
- 21 If employed in nursing immediately inform the Board in writing of all places of employment. If employment changes, the Board shall be immediately (within 72 hours) notified in writing.
- 22 If unemployed or employed in a non nursing position, inform Board in writing on quarterly basis.
- 23 During the period of probation, Respondent shall engage in the practice of professional nursing in Louisiana for a minimum of twenty four (24) hours per week for a minimum of 12 consecutive months.
- 24 Not have any misconduct, criminal violations or convictions or violations of any health care regulations reported to the Board related to this or any other incidents.
- 25 Failure to comply with the above orders, receipt of an unfavorable report or non receipt of reports on or before the date due shall result in the immediate suspension of this registrant's license. This suspension can be imposed by action of the staff subject to the discretionary review of the Board.

Having read the proposed Settlement Order made by the Settlement Committee,

I accept

Timothy M Breckenridge
Name

11-15-10
Date

I decline

Name

Date

the offer made by the Committee

Timothy McClure Breckenridge
Timothy McClure Breckenridge

Barbara L Morvant
Barbara L Morvant MN, RN Executive Director
Presiding Officer of Settlement Committee

Dated this 15th day of November 2010

LOUISIANA STATE BOARD OF NURSING
IN THE MATTER OF TIMOTHY MCCLURE BRECKENRIDGE

COMPLAINT

Barbara L. Morvant, acting in her official capacity as Executive Director of the Louisiana Board of Nursing ("Board"), with respect to the above entitled matter appears for the purpose of commencement of a Formal Hearing in accordance with La. R.S. 37:911, *et seq.* and respectfully represents:

1.

Respondent was licensed as a Registered Nurse by examination on March 15, 2002.

2.

Respondent has violated La. R.S. 37:911, *et seq.* ("Nurse Practice Act"), and the Rules and Regulations promulgated pursuant thereto, as a result of the following facts:

Respondent has demonstrated a pattern of alcohol-related incidents that have led to intervention by law enforcement. Specifically, after completing court-ordered probation related to a March 14, 2002, arrest for Driving While Intoxicated (DWI) with an Intoxilyzer alcohol level of 0.177g%,

- On or about November 24, 2009, Respondent was arrested by the Baton Rouge Police Department for 2nd offense DWI and Driving without Headlights, with an Intoxilyzer alcohol level of 0.238g%. Court proceedings are currently pending, as Respondent's next court date is scheduled for November 17, 2010.

3.

La. R.S. 37:921 authorizes the Board to deny, suspend, probate, limit, restrict or revoke any licensee to practice as a Registered Nurse, and to impose fines, assess costs or otherwise discipline a licensee or applicant. As a result of the above-listed facts, Respondent has violated the Nurse Practice Act and the Rules and Regulations promulgated thereunder, specifically:

- Respondent is unfit or incompetent by reason of negligence, habit, or other cause; La. R.S. 37:921(3);

COMPLAINT

TIMOTHY MCCLURE BRECKENRIDGE

September 17, 2010

- Respondent has demonstrated actual or potential inability to practice nursing with reasonable skill and safety to individuals because of use of alcohol or drugs ...La. R.S. 37:921 (4).

4.

La. R.S. 37:921 authorizes the Board to deny, suspend, probate, limit, restrict or revoke any license for the violations set forth above.

5.

La. R.S. 37:925 authorizes the Board to impose a fine of up to \$5,000.00 for each count or separate offense and to assess all costs of the proceedings, including, but not limited to, the costs of investigation and disciplinary proceedings.

WHEREFORE, the undersigned prays that, after due proceedings, the Louisiana State Board of Nursing render a decision, upon written Findings of Fact and Conclusions of Law, imposing the appropriate, authorized sanction(s) including denial, suspension, probations, limitation, or revocation of license and assessing all costs of this proceeding, including, but not limited to, the cost of investigation and disciplinary proceedings.

LOUISIANA STATE BOARD OF NURSING

By: Barbara L. Morvant
Barbara L. Morvant, MN, RN
Executive Director

Sworn to and subscribed before me, this 17th
day of September, 20 10 in Baton Rouge, Louisiana.

Joy A. Peterson
Joy A. Peterson LA Bar #19101
NOTARY PUBLIC